



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application

Esswein et al.

Group: 1626

Serial No. 09/675,943, filed September 29, 2000

Examiner: L. Stockton

For: **OSTEOBLAST-SPECIFIC MITOGENS AND DRUGS CONTAINING SUCH COMPOUNDS**

PETITION TO REVIVE UNAVOIDABLY ABANDONED
PATENT APPLICATION UNDER 37 CFR 1.137(a)

Nutley, New Jersey 07110
March 17, 2003

Attention: Office of Petitions
Assistant Commissioner of Patents
Box DAC
Washington D.C. 20231

RECEIVED
MAR 26 2003
OFFICE OF PETITIONS

Sir:

Applicants hereby petition to revive the above-identified patent application pursuant to 37 C.F.R. §1.137(a), or in the alternative under 37 C.F.R. §1.137(b), if the

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DEPOSIT ACCOUNT
NO. 08-2525
OUR ORDER NO. <u>4795</u>

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Filed: September 29, 2000

Patent Office does not agree that the abandonment was unavoidable. The application was unavoidably abandoned because applicants failed to receive an Office Action allegedly mailed by the Patent Office on July 10, 2002 and therefore could not timely respond to the Office Action.

On June 10, 2002, applicants mailed to the Patent Office a Request for Continued Examination that was acknowledged by the Patent Office as being received on June 18, 2002. Applicants received no further communication from the Patent Office until January 22, 2003, when the undersigned attorney was telephoned by Examiner Laura Stockton and informed that the subject application was abandoned because the six (6) month statutory period for filing a response ended January 10, 2003. Examiner Stockton followed up with a Notice of Abandonment on January 23, 2003.

Applicants did not receive the Office Action dated July 10, 2002 until March 13, 2003 when the Office Action was sent to the undersigned attorney via facsimile. Applicants have in place a system for handling all mail received from the Patent Office. Mail forwarded to Hoffmann-La Roche Inc. ("Roche") is received by the Roche mail room. All mail from the Patent Office is forwarded to our docketing clerks who stamp the date received and enter such date and due date into Roche's computerized docketing system. The original mail is then filed in the appropriate patent file. There is no record at Roche of

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the Office Action having been received. There is no indication that the Office Action was ever entered into the docketing system. There is no Office Action in the patent file. Accordingly, the most likely scenario is that the Office Action was never delivered to Roche. Since Roche never received the Office Action, abandonment was unavoidable. Applicants had no intent to abandon the application.

Applicants request that the subject application be revived. Pursuant to 37 C.F.R. § 1.137(a), applicants is accompanied by:

- (1) A reply to the Office Action;
- (2) Authorization to charge the petition fee set forth in 37 C.F.R. § 1.17(l);
- (3) A showing (set forth above) that the entire delay in filing the reply was unavoidable; and
- (4) No terminal disclaimer because this is neither a design application nor an application filed before June 8, 1995.

If the Patent Office determines that the delay was avoidable and denies this petition under 37 C.F.R. § 1.137(a), applicants request that the petition be considered under 37 C.F.R. § 1.137(b). Authorization is granted in such case to charge the amount of the fee required under 37 C.F.R. § 1.17(m).

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In accordance with 37 C.F.R. §1.137, please charge Deposit Account No. 08-2525 for the amount of the fee due under either 37 C.F.R. § 1.17(l), in the case the Patent Office agrees with applicants that the abandonment was unavoidable, or 37 C.F.R. §1.17(m), in the case the Patent Office disagrees with applicants and determines that the abandonment was unintentional. The Commissioner is hereby authorized to charge any additional fee or credit overpayment to Deposit Account No. 08-2525. A triplicate copy of this petition is enclosed. If any additional fee is deemed necessary, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 08-2525.

Any questions regarding this communication or this application should be directed to the undersigned attorney of record at (201) 235-6326.

Respectfully submitted,



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